

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NORMAN C. BLOOM,	:	
Plaintiff,	:	
	:	
-vs-	:	Civ. No. 3:02cv907 (PCD)
	:	
MICHAEL A. DOUGLAS,	:	
Defendant.	:	

RULING ON MOTION FOR RECONSIDERATION

Third-party defendants move for reconsideration of the 1/15/03 ruling awarding costs necessary to effect proper service pursuant to FED. R. CIV. 4(d) and denying plaintiff's motion to compel and for sanctions. Reconsideration is granted, the award of costs is vacated and the motion to compel is granted.

The motion for costs was directed to the failure of the third-party defendants to timely respond to a request for waiver of service of process. The third party complaint was filed on the day defendant's motion to implead the third party defendants was granted, or October 3, 2002. The third-party complaint thus was not operative until then, and as the request for waiver served prior to October 3, 2002 is similarly ineffective in establishing an obligation to respond to the request. *See* FED. R. CIV. P. 4(b) (providing clerk may sign summons "[u]pon or after filing the complaint"). As the request for waiver required a response by either October 19, 2002, an improper requirement given the thirty-day minimum time limit for such a request, *see* FED. R. CIV. P. (d)(2)(F) (providing "a reasonable time to return the waiver [shall be afforded defendant], which shall be at least 30 days from the date on which the request is sent"), or within sixty days, the third party defendants had sixty days from the filing date.

By serving the third-party defendants on November 14, 2002, defendant acted prior to expiration of the sixty day response period specified in the request, thus he may not claim an improper delay in responding to the request. Plaintiff's motion to award costs is therefore denied.

As to the ruling on the motion to compel, plaintiff correctly points out that the matter contained in his reply brief was not considered by this Court. Such is true only because this Court's Supplemental Order requires that all papers, including the motion, memoranda in support and in opposition and reply, be filed in this Court at the same time. As replies need not be filed to memorandum in opposition, none would be expected if the filing was in compliance with the Supplemental Order. As such, plaintiff will familiarize himself with the Supplemental Order appearing in the file as docket entry number three, the contents of which he is presumably aware.

Plaintiff, in his reply, argued that work product documents in the form of attorney time sheets provided were unreadable and thus not responsive to his discovery requests. The relevant issue in the motion to compel would appear not to be that defendant answered four interrogatories by directing plaintiff to time records, as raised in the motion to compel and addressed in the original ruling, but rather that the records themselves were illegible. As defendant has been afforded sufficient time to object to the plaintiff's reply brief and the present motion for consideration and has failed to do so, the time sheets will be reviewed. On review, the handwritten time sheets are sufficiently illegible to be unresponsive to the discovery requests seeking disclosure on the extent of services performed as an attorney. Defendant is therefore ordered to provide a typewritten version of the same to plaintiff to the extent the information is responsive to interrogatories 8, 9, 10, and 11, or in the alternative to provide written responses to the interrogatories. No costs will be awarded for the failure to provide legible

copies of the attorney time sheets to plaintiff.

The motion for reconsideration (Doc. No. 20) is **granted**. The rulings of 1/15/03 granting the motion to impose costs and denying the motion to compel are hereby **vacated**. Defendant's motion to impose costs of effective service (Doc. No. 10) is **denied**. Plaintiff's motion to compel and for sanctions (Doc. No. 12) is **granted in part**.

SO ORDERED.

Dated at New Haven, Connecticut, March ___, 2003.

Peter C. Dorsey
United States District Judge